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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/702,196	10/30/2000	Shmuel Shaffer	2705-119	9840

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EXAMINER

DUONG, OANH L

ART UNIT PAPER NUMBER

2155

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/702,196	<b>Applicant(s)</b> SHAFFER ET AL.	
	<b>Examiner</b> Oanh Duong	<b>Art Unit</b> 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 63-86 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 63-86 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### **DETAILED ACTION**

1. Claims 1-62 have been canceled.  
Claim 63-86 are newly added for examination.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/02/2006 has been entered.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 63-86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuster) (US 6,170,075 B1) in view of DeLuca et al. (DeLuca) (US 5,701,312).

Regarding claim 63, Schuster teaches a method comprising:

establishing a connection between a first device and a second device through a packet switched network using packet network communication protocol (col. 1 lines 41-47 and col. 12 lines 1-4);

transmitting, from the first device, original voice data in original packets through the connection (col.12 lines 39-48);

generating redundant data by replicating the original voice data (col. 16 lines 10-14).

Schuster does not explicitly teach determining a replication factor at the first device; and transmitting, from the first device, redundant voice data by replicating the original voice data including a redundancy index, wherein the redundancy index is based on the replication factor.

DeLuca teaches a communication system wherein repeat messages are selectively provided (seen in abstract). Deluca teaches determining a replication factor at the first device (*i.e., transmission number (i.e., replication factor) is stored/determined for each message to indicate how many times the message has been transmitted, page 2 lines 58-60*); and transmitting, from the first device, redundant voice data by replicating the original voice data including a redundancy index (*i.e., the message number associated with the message, col. 7 lines 3-4*), wherein the redundancy index is based on the replication factor. (*i.e., sending a repeat messages to the device, col. 9 lines -25*).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the step of determining a replication factor at the first

Art Unit: 2155

device, and transmitting, from the first device, redundant voice data by replicating the original voice data including a redundancy index, wherein the redundancy index is based on the replication factor as taught by DeLuca into the process of data transmitting in Schuster. One would be motivated to do so to reduce the likelihood of missed data while efficiently utilizing the communication channel (DeLuca, col. 1 lines 30-32).

Regarding claims 64, 72, 79, and 85, Schuster-DeLuca teaches determining if a replication flag has been set (Schuster, col. 16 lines 10-14), and if the replication flag has been set, determining a replication factor comprising determining an under-utilization of a modem (DeLuca, col. 5 line 66-col. 7 line 45).

Regarding claims 65, and 80, Schuster-DeLuca teaches the method of claim 64, comprising setting a replication flag based upon one of either reception of redundancy request or a comparison of an input error rate to a threshold (DeLuca, col. 3 lines 23-52).

Regarding claims 66, 73, and 81, Schuster-DeLuca teaches the method of claim 63, determining a replication factor comprising one of determining an under utilization of a modem, network resources, or a redundancy request (DeLuca, col. 3 lines 23-52).

Regarding claims 67, 74, and 82, Schuster-DeLuca teaches the method of claim 67, transmission redundant voice data (Schuster, col.12 lines 39-48) comprising transmitting the redundant data as additional packets (col. 2 lines 43-50).

Regarding claims 68, 75, and 83, Schuster-DeLuca teaches the method of claim 67, transmitting the redundant voice data as additional voice packets comprising transmitting addition packets with redundancy indices (DeLuca, col. 3 lines 23-52).

Regarding claims 69 and 76, Schuster-DeLuca teaches the method of claim 63, transmitting the redundant voice data as additional data in off-series original packets (DeLuca, col. 9 lines 18-26).

Regarding claims 70, 77 and 86, Schuster-DeLuca teaches the method of claim 63, transmitting, from a first device, comprising transmitting from of a transmitting endpoint or a router between the transmitting endpoint and the second device (DeLuca, col. 5 lines 49-65).

Regarding claim 71, this claim comprises a device that performs a corresponding method claim 61, discussed above, same rationale of rejection is applicable.

Regarding claim 78, this claim comprises an article of computer-readable medium containing instructions, that when executed, cause the computer to perform a

corresponding method claim 63, discussed above, same rationale of rejection is applicable.

Regarding claim 84, this claim comprises a device that performs a corresponding method claim 61, discussed above, same rationale of rejection is applicable.

### ***Response to Arguments***

5. Applicant's arguments filed 10/02/2006 have been fully considered but they are not persuasive.

In the remarks, applicant argued in substance that

(A) prior art does not teach a replication factor that is determined by the transmitting device and is used to determine a redundancy index within the packets.

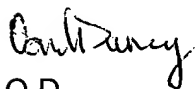
As to point (A), DeLuca teaches a replication factor that is determined by the transmitting device (*i.e., transmission number (i.e., replication factor) is stored/determined for each message to indicate how many times the message has been transmitted, page 2 lines 58-60*) and is used to determine a redundancy index (*i.e., message number*) within the packets (*i.e., the message number associated with the message, col. 7 lines 3-4*).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Oanh Duong whose telephone number is (571) 272-3983. The examiner can normally be reached on Monday- Friday, 9:30PM - 6:00PM.

Art Unit: 2155

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



O.D

October 30, 2006